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FCC FILE ROOM

September 26, 1995

**Office of the Secretary
Federal Communications Commission
1919 M Street, N.W.
Room 222
Washington, DC 20554**

DOCKET FILE COPY ORIGINAL

**Re: In The Matter Of Amendment of the
Commission's Rules and Policies to Increase
Subscribership and Usage of the Public Switched
Network for Basic Telephone Service
CC Docket No. 95-115**

TO THE HONORABLE COMMISSION:

**Enclosed please find an original and nine copies of the comments concerning
Amendment of the Commission's Rules and Policies to Increase Subscribership and Usage
of the Public Switched Network for Basic Telephone Service for filing with the Commission
in the above-referenced matter.**

**Please indicate your receipt of this filing on the additional copy provided and return
to the undersigned in the enclosed, self-addressed, postage prepaid, envelope. Thank you.**

Sincerely yours,

**R. Earl Poucher
For Florida Office of Public Counsel**

Enclosure

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**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION**

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In the Matter of Amendment of the :

Commission's Rules and Policies to Increase :

CC Docket No. 95-115

Subscribership and Usage of the Public :

Switched Network for Basic Telephone Service :

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DELAWARE OFFICE OF THE PUBLIC ADVOCATE

FLORIDA OFFICE OF THE PUBLIC COUNSEL

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SEP 27 1995

FEDERAL COMMUNICATIONS COMMISSION

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

**RESPONSE OF THE STATE CONSUMER ADVOCATES OF DELAWARE, FLORIDA,
MAINE AND MISSOURI (SCA) TO FCC NOTICE OF PROPOSED RULEMAKING**

INTRODUCTION

The Delaware Public Advocate, The Florida Office of Public Counsel, the Maine Public Advocate and the Missouri Office of the Public Counsel (hereinafter referred to as State Consumer Advocates or "SCA") file these comments concerning the Notice of Proposed Rulemaking In the Matter of Amendment of the Commission's Rules and Policies to Increase Subscribership and Usage of the Public Switched Network for Basic Telephone Service (hereinafter referred to as Notice), released on July 13, 1995 as CC Docket No. 95-115. Through this Notice, the FCC has proposed rules to require telephone companies to discontinue the practice of disconnecting basic local telephone service for non-payment of interstate long distance messages. The Commission has requested the parties to comment on the proposed rules and other aspects of subscribership and universal service. The State Consumer Advocates represent their respective citizens in matters before state and federal regulatory bodies. In the comments which follow, State Consumer Advocates provide their views on the proposed regulations.

I. SUMMARY

The FCC should be commended for taking a leadership role by considering what additional steps are warranted today in order for our nation to truly achieve the universal service objectives that we have espoused for the past 60 years.

For too long, we in the telecommunications industry have been congratulating ourselves as to how far we have come, rather than asking the more difficult question of how far we can go. State Consumer Advocates share your concern that universal service has not yet achieved its potential, and that literally millions of our citizens are stranded without access to the protections of basic dial tone and access to emergency services. The nation is best served if all our citizens have access to the mainstream of our economic fabric. Telecommunications services continue to grow as a vital thread within that fabric. In areas where employment is low, the economy is bad and crime is rampant, we need to provide bridges to show people the way out. Basic dial tone is an electronic bridge that is vital when people are seeking employment, or when a child is dialing 911 to report a fire. No longer should we isolate our citizens because we are following corporate policies and regulatory rules that were designed to assist a nationwide monopoly that has now been dismantled, to sell its services and collect its money in the most expeditious manner. All regulators need to look closely at the procedures that are in place today, to ensure that they are right for the future.

State Consumer Advocates support the FCC's proposal that telephone companies should not be allowed to disconnect local service with access to 911 for non-payment of interstate long distance charges. However, if state and federal legislators stop here, then the mandate to achieve universal service will not succeed. We are proposing that the FCC endorse additional measures that states could implement consistent with the objectives of the FCC and the goals of universal service. We should not be proud as a nation of great economic power and affluence, when we are spending billions of dollars to deploy broadband, fiber-optic facilities for access to the Global Information Infrastructure, that we still allow some children to grow up in households that will never have access to basic dial tone and emergency services. Working together, state and federal legislators, and industry participants, have the power and the capability of solving this problem. It should be done.

While State Consumer Advocates are mindful of the interstate content that exists in local dial tone, we also recognize that the area of terms and conditions for providing local exchange telephone service is one that has been left to the states, in the past. We support a continuation of those policies. Indeed, some states have already acted to prevent denial of local service for unpaid long distance billing

However, the FCC cannot ignore the mandates of the Communications Act of 1934 (and those which may well follow) to achieve universal service. You have not done so in the past and should not do so in the future. Indeed, the FCC statistical database is the only reliable data available regarding the progress of the nation in achieving universal service. If it were not for the FCC initiatives in tracking universal service, it is doubtful that there would be any appreciation today that a problem even exists.

SCA therefore recommends in this Notice that the FCC take a firm stand to encourage the states to unbundle interstate and intrastate long distance from local exchange service, and to require local providers to adequately inform consumers of the availability of the most economical services, especially Linkup, Lifeline and "Safenet". Why should consumers be required to subscribe to a service that includes long distance when they can't afford the deposit?

We recommend that the FCC urge the states to recognize that it is no longer in the best interest of all consumers to require outward access to long distance as part of the basic service package. We believe that the states can move in concert with FCC guidelines to implement these and other programs to ensure that the objectives of universal service are achieved before another 60 years passes.

Before we consider the solutions to the problems enumerated by the Commission, we believe it is appropriate to put to bed any questions that remain regarding the basic problem. We fully expect that the various carriers will maintain that there is no problem, that we've gone as far as we can go. These carriers have little economic incentives to serve customers with minimal purchasing power. Yet, we wonder how many children we are going to allow to grow up in American households without access to basic dial tone and 911 emergency services if we fail to act now?

The economically disadvantaged have substantially lower rates of subscribership than the overall average of 94%. Less than 70% of food stamp recipient households have telephone service. Under 60% of the households completely dependant on welfare have telephone service. Only 87.9% of unemployed adults have access to the telephone network.

And finally, a study by Guardian Ad Litem in Miami reveals that out of over 1200 protected households where children were at risk, less than half have access to basic dial tone and 911 service.

The FCC's own data base clearly shows that when income is not a factor (those over \$50,000 in annual income) that 99.6% of American households have telephone service, including 100% of native Americans. SCA recommends that 99.6% is an appropriate goal for universal service initiatives, and that we should measure our progress based on our ability to bring the forgotten 5% of American households onto the network.

II. PROPOSALS TO INCREASE SUBSCRIBERSHIP

The FCC comments and initial assumptions are on target regarding the need for new initiatives to achieve universal service. SCA supports the concept, first, that the nation has failed to achieve its universal service mandate as stated in the Communications Act of 1934. Our nation has survived a devastating depression, a World War and several others since 1934. Sixty years have passed. We have achieved unparalleled economic growth. And yet, over five percent of the people in our nation still do not have access to basic dial tone or 911 emergency services.

Our nation has come too far to allow young children to be raised in homes that do not even have access to emergency services. We do not need to perpetuate regulatory practices that hold the poor and the unemployed outside the mainstream of the economy, by denying them one of the basic elements needed to seek employment--a telephone to call for job information, and a telephone to be reached for job offers.

While telecommunications companies are spending millions of dollars in advertising and lobbying in order to gain an advantage for their stockholders, they are going to tell you they can't do more to achieve universal service. In the past, Congress has been concerned about those who do not have access to the network. Proposed legislation clearly mandates this as a goal for the future. Surely, if all of the players resolved to settle the problem of expanding the universality of local exchange service, then the problem could be solved quickly, without significant burden. Instead, it is likely you are going to be told that we have already achieved universal service, that 94% is as far as we can go, or should go. Let it suffice that the existing carriers and all those who intend to compete will not voluntarily make efforts to extend the protection of basic telephone service to those who are presently disenfranchised unless ordered, forced or enticed to do so.

We should first resolve the issue that five percent of our population doesn't have telephone service because they prefer not to have it. The FCC's latest data on subscribership clearly shows that the answer to universal service is to provide all citizens with an annual income of \$50,000. In the strata of wage-earners whose income exceeds \$50,000, 99.6% of the living units subscribed to telephone service, regardless of minority status. As we move down the income ladder, then minority status becomes a factor, but the dominating factor is income. The FCC has pointed toward other studies that indicate there are significant numbers of customers who do not have basic telephone service because they cannot afford to pay previous delinquent bills. The telephone companies, as a general rule, refuse to accept applications for service unless previous delinquencies are paid in full. It's

reasonable to assume that long distance usage is the primary source of many of these delinquencies.

Telephone companies generally demand a high deposit for reconnection of services disconnected for non-payment. Thus, even after all past due debts are paid, a deposit equal to the past due amount would normally be required for new service, thus removing much of the risk of future losses. If customers want to pay off their past debts and continue to receive long distance services, then they should be allowed to do so and the companies should be allowed adequate protection from risk. However, if we unbundle long distance from local service, then companies can eliminate most of their risk by offering the "Safenet" option.

Telephone company service connection charges continue to be a barrier for the economically disadvantaged. Many customers could probably afford telephone service if they were aware of Link Up America and Lifeline programs. Yet, one must ask how the poor learns that this assistance is available? The most obvious location for information of this type is in the front of the local telephone directory, but absent an FCC or state commission order, it will never happen.

We believe that a combination of factors keeps us from achieving universal service, including:

- Customers who have unpaid bills for long distance services
- Customers who have been quoted high deposits because of the risk of long distance usage

--Customers who are afraid to order service because of the risk of unauthorized long distance usage by third parties or children

--Customers who are not aware of Linkup and Lifeline

In order to implement programs that will effectively eliminate the existing barriers to achievement of truly universal service, the following procedures should be recommended to the states for adoption:

1. If the FCC imposes a rule to refuse to allow disconnection of basic service for non-payment of interstate long distance charges, then the states should impose companion rules to ensure that new service applications are not denied for the non-payment of previous interstate long distance charges. This would solve the problem of those existing customers who are actively seeking to get back on the network, but are blocked by procedures that require total payment of all past due amounts.

2. The states should be encouraged to implement rules requiring that customers who subscribe to basic service without access to long distance must not be required to pay a deposit that is based on previous interstate long distance usage, even if such past due amounts are unpaid.

3. The FCC should encourage the states to implement requirements for companies that publish telephone directories to include suitable informational pages in the front of their directories that will allow prospective customers who are economically disadvantaged to be aware of all their options, including Lifeline, Link Up, and a new service that we propose they call Safenet.

4. The states should be encouraged to unbundle basic local service from long distance by offering Safenet service. Safenet service would consist of the following:

--Basic local service only, provided at no additional charge above the standard, published rates for flat rate and measured rate residential and business telephone service, thus allowing local customers the option of blocking access to long distance services.

--Available to the rich and poor alike, with screening to deny outdialing of interstate long distance, credit card and third number calls.

--For those customers not qualified for Lifeline, 50% reduction in the Subscriber Line Charge to reflect denial of access to outward interstate long distance services.

III. SUBSCRIBERSHIP BARRIERS AND MEASUREMENTS

42. No comment.

43. No comment.

44. The Commission assumes that 100% penetration is not possible, and we agree.

However, the LECs are going to tell you that they have achieved universal service already. Beware of these arguments, because the LECs appear to be no longer keeping statistics on subscribership. Recent discovery in Florida, involving large and small LECs indicated that NONE OF THE LECS who responded to the discovery request had any process to allow them to analyze percentage subscribership. The respondents who had no data included BellSouth, GTE and Sprint United. Therefore, we assume that the F.C.C. knows and

appreciates the problems of subscribership more accurately than the LECs themselves. Your data shows that when income is not a barrier, that 99.6% of households will have telephone service. This should be our goal, until such time as a more reliable data base is available, if ever.

SCA believes the barriers to expanding universal service are built into the system by the LECs as a collection system and as a revenue-generating program. LECs have been motivated in the past to bundle local service with message toll because of the high profitability of message toll. Today, message toll is still profitable for the LECs because it generates IntraLata traffic, access charges, Subscriber Line Charges and Billing and Collection revenues. Why would any company intent on high profits want to encourage customers to minimize their purchases or give up the advantage of denying local service for collection of a toll bill?

There is no incentive for companies to encourage customers to subscribe to local only service. Indeed, the mechanized billing and collection systems enable the companies to hold local dial tone hostage in order to collect long distance bills. By allowing local exchange companies to deny local service for collection of a long distance bill, we are creating an enormous advantage for incumbent LECs over potential competitors for billing and collection services. Thus, some have already pointed out that there may be anti-competitive consequences if long distance usage can result in denial of local service.

The Commission should consider all of the economic reasons why LECs wish to bill as much message toll revenue as possible, and the advantage the companies have in holding local dial tone hostage for the collection of the message toll revenues. It's time that we

recognize that local and toll must stand separately, if we are to succeed in expanding subscribership. To continue to encourage companies to force new customers to purchase combined local and toll access means that we are buying into the process that has probably disenfranchised five percent of our households.

A final barrier to achieving more universal service revolves around the issues of security. No state or regulatory authority should attempt to dictate any limits or maximum amount of service a telephone subscriber can afford, regardless of their circumstances. But many potential subscribers live in multi-family residential locations with little or no physical security to prevent toll abuse by unauthorized parties (or uncontrollable teenagers). In many cases, the subscriber could be ill or handicapped and unable to control unauthorized use of their telephone by third parties. A Safenet service makes it possible for such customers to receive local only telephone service without the attendant risk of access to long distance. Many of these citizens would be telephone subscribers today if they had not been disenfranchised due to bad debts incurred through no fault of their own.

IV. CONSUMER AWARENESS ISSUES

46. State Consumer Advocates support the assumption that consumers are generally unaware of the availability of assistance in obtaining the protection of basic telephone service. We believe that the universal service objectives will only be achieved if there is a coordinated effort to identify non-users and bring them into the network. At the present time, there is no incentive, no pressure and no advantage that existing carriers receive from expanding subscribership. Indeed, there are economic advantages for the

carriers to not accelerate consumer educational programs regarding universal service initiatives.

47. We believe that the responsibility and commitment to expanding subscribership needs to be addressed by the F.C.C., State Commissions, NARUC and all telecommunications carriers. If all parties are convinced that improvement in subscribership is possible, and committed to the means of accomplishing it, then we have a good possibility for success. The F.C.C. should state its expectations that all telecommunications companies, particularly those who are part of universal service funding, have an obligation to establish programs to expand subscribership and to ensure that customers are aware of existing assistance programs.

The FCC, itself, should set the example for the states by providing specific information to other Federal agencies in order to encourage Federal awareness programs regarding universal service assistance.

Telecommunications carriers who publish telephone directories should publish specific information regarding all universal service assistance programs and consumer rights in the front of their directories, subject to review and approval by the states. The F.C.C. should recommend that the states require that all new applicants for telecommunications service be advised of the most economical service offered and of all universal service assistance programs. Since many customers will not want to disclose the fact that they are on public welfare when applying for service, each company should inform customers by bill insert of the qualifications for universal service assistance programs, including a blank application.

Companies should advise all customers annually of the availability of such programs and include similar information in the front of telephone directories.

There is no reason that the F.C.C. could not consider incentives to local telecommunications companies to improve their level of subscribership. For instance, price cap LECs might be allowed to exclude the revenues obtained from new customers added to the network through Linkup, Lifeline or Safenet. above existing levels of penetration. Or, if it was determined that a company had 96% penetration, and our goal is 99.6%, then for each percent improvement in subscribership, the LECs might be allowed to increase rates by a specific amount or to increase earnings above capped levels by an appropriate amount. An interstate economic incentive to expand subscribership would be consistent with legislative mandates and would recognize that this activity would not, by its nature, be highly profitable.

48. SCA believes that if the F.C.C. takes a strong leadership role by adopting a comprehensive program designed to actually achieve universal service, that the states will follow suit. A strong commitment by the F.C.C. would be helpful for consumer advocates, who will need to press these issues locally. Some states are already in the forefront, adopting consumer-friendly rules that encourage full disclosure, state support and uniform regulations that fully inform low income citizens of the opportunities for assistance in obtaining basic service.

49. We encourage the F.C.C.'s suggestions that the states be encouraged to work together with telecommunications firms to reconnect subscribers who have been disenfranchised. However, it's just plain naive' to assume that these companies are going to voluntarily extend themselves to return customers to the network who are at the bottom of the economic scale. If the F.C.C. is convinced, as we are, that the past collection policies of the companies have caused substantial numbers of customers to drop off the network, then the states will need to impose programs designed to solve the problem.

Of all of the suggestions we have offered, we believe the "unbundling" of basic local service with Safenet service offers the best hope for improved subscribership for future customers.

Regardless of the approach used to unbundle the local/toll connection, some thought needs to be devoted to the existing group of customers who are denied due to unpaid bills. How will we inform those customers of new rules, since they don't have dial tone?.

Another concern for the states is the cost issue for toll blocking. Currently, this service is a premium item, because the companies really don't want to offer it. Since service provisioning is simply a software process today, then there is no more cost for toll blocking when provided initially than there is for toll access--it's a simple software entry. The companies are going to want to collect their high-profit tariff rate for toll blocking, but this argument should be rejected.

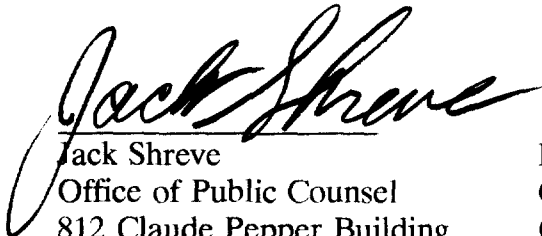
The states should consider mandatory rules to inform all customers, past and present of the unbundling of long distance from local and companies should be encouraged to

establish installment billing arrangements for the recovery of past due amounts in order to allow Safenet customers access to dial tone while past debts are recovered.

51. Education. No comment.

52. Streamlined certification procedures. No comment.

Respectfully submitted:



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